UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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LEVEL 3 COMMUNICATIONS, LLC,
Petitioner,

v.

AIP ACQUISITION LLC,
Patent Owner.

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Case IPR2013-00296
Patent 7,724,879 B2

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Before JAMESON LEE, HOWARD B. BLANKENSHIP, and
JUSTIN BUSCH, *Administrative Patent Judges.*

BUSCH, *Administrative Patent Judge.*

FINAL WRITTEN DECISION
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

I. BACKGROUND

Level 3 Communications, LLC ("Petitioner") filed a Petition[1] (Paper 6, "Pet.") requesting *inter partes* review of claims 1–15 (all the claims) of U.S. Patent No. 7,724,879 B2 ("the '879 patent") under 35 U.S.C. §§ 311–319. On October 31, 2013, the Board instituted an *inter partes* review of claims 1–15 ("the challenged claims") on four asserted grounds of unpatentability ("Dec. on Inst."). Paper 14. Subsequent to institution, AIP Acquisition LLC ("Patent Owner") filed a Patent Owner Response ("PO Resp."). Paper 20. Petitioner filed a Reply ("Pet. Reply") to the Patent Owner Response. Paper 30. Oral hearing was held on July 15, 2014.[2]

The Board has jurisdiction under 35 U.S.C. § 6(c). This final written decision is issued pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73.

For the reasons that follow, we determine that Petitioner has shown by a preponderance of the evidence that the challenged claims are unpatentable.

A. *The '879 Patent (Ex. 1001)*

The '879 patent relates to methods for allowing "communication between otherwise incompatible communication networks in a manner that is transparent to the calling party." Ex. 1001, 1:61–63. For example, claimed methods allow the Internet, or another data network, to function like a telecommunications network. *Id.* at 6:36–38. Calling parties may dial remote locations for the price of a local access and service fee to have voice conversations with called parties in those locations and to avoid using long distance carriers. *Id.* at 6:38–42. In order to make such calls, a local system

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[1] We refer to the corrected Petition filed May 29, 2013.
[2] The record includes a transcript of the oral hearing ("Hr'g Tr."). Paper 41.

may be dialed via computer access or a regular telephone, which prompts the
calling party for the called party's telephone number or other identification.
Id. at 6:42–44. The calling party then is connected to the called party over
the Internet or another data network, such as by connecting the parties via a
node through a local call or through other networks. *Id.* at 6:44–47. For
example, a calling party may access a node that converts the telephone
transmission (e.g., the voice transmission) into data supported by the
network chosen by the node. *Id.* at 6:47–49. In this example, a network
may connect to another node proximate to the called party that then converts
the data transmission back into a voice communication and converts the
voice communication into a local call to the called party with the called
party node operated by an independent service provider located elsewhere,
such as in another country. *Id.* at 6:49–54.

   A method, as recited in the challenged claims, is illustrated by the
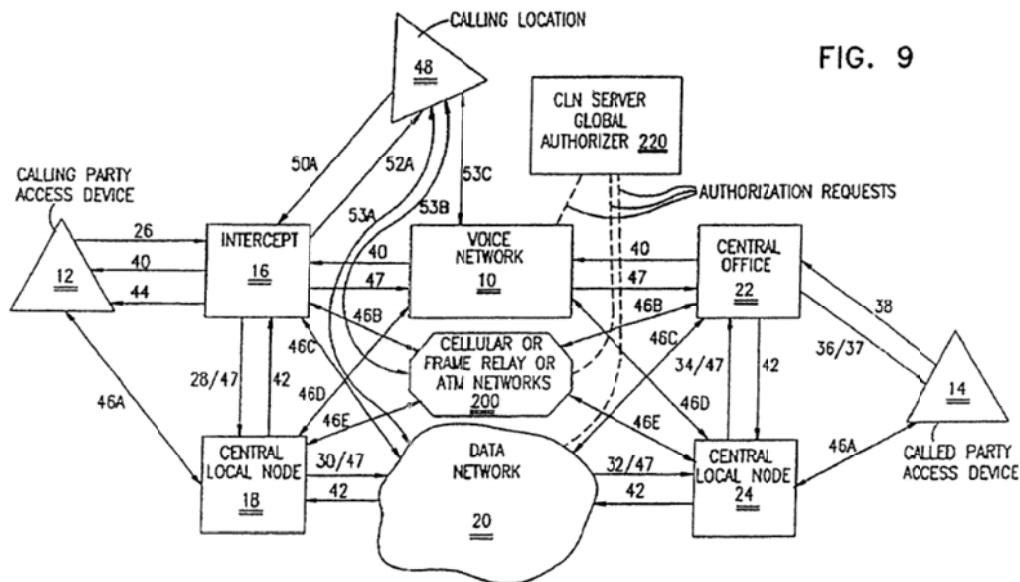conceptual block diagram in Figure 9, reproduced below:

FIG. 9

Figure 9 provides an overview of the transmission flow between a calling
party and a called party. *See id.* at 6:36–56. In Figure 9 of the '879 patent, a

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conceptual block diagram depicts the principles of operation of the method, as recited in independent claim 1, for transmitting voice communications between a calling party and a called party over a data network or another network. *Id.* at 4:3–4, 14:27–45. The calling party at calling location 48 transmits a call to calling party access device 12 via intercept 16 over link 50A. *Id.* at 14:62–15:3. Intercept 16 may be part of central local node 18. *Id.*at 15:11–12. Local node 18 receives transmissions from access device 12, converts those transmissions from a first format (e.g., a telecommunication protocol) to "an internet protocol" for transmission over data network 20, and sends the converted transmissions over data network 20 in order to establish and transmit voice communication for a phone call with called party access device 14. *Id.* at Fig. 9.

As an alternative to communicating through data network 20, additional two-way direct link connections 46A–E are depicted. *Id.* at 14:29–36. Through these connections, calling party access device 12 may route communications to called party access device 14 via either communications network 10[3] or another network 200, such as a cellular, Asynchronous Transfer Mode (ATM), or frame relay network. *Id.*; *see also id*. at 7:34–39. Access device 14 may receive the voice communication via a central local node 24 and/or a central office 22. *Id.* at 15:4–8. Central local node 24 and central office 22 may be separate components. *Id.* at 15:12–14. The transmissions are converted from the internet protocol to another format suitable for reception by access device 14, such as the telecommunications

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[3] In Figure 9 of Ex. 1001, communications network 10 is identified as "voice network 10."

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protocol from which the transmissions were originally converted. *See id.* at 4:34–42.

B. Illustrative Claim

Independent claim 1, which is the only independent claim and is illustrative of the subject matter, is reproduced below:

> 1. A method for communication between two access devices via one or more networks, comprising the steps:
>
> receiving a transmission in a first format through a first communication network from a first access device, the first format comprising a telecommunication protocol for establishing and transmitting voice communication for a phone call in one of a digital telephone network, an analog telephone network, and a cellular network;
>
> performing a first conversion converting the transmission from the first format to a second format, the second format being an internet protocol;
>
> sending the converted transmission through a second communication network, the second communication network being a data network, for reception by a second access device; and
>
> performing a second conversion further converting the converted transmission from the second format to a further format suitable for the second access device, wherein the first access device and the second access device comprise telecommunication nodes, and said further format comprises said first format or another telecommunication protocol.

C. Related Proceedings

On May 17, 2012, Patent Owner filed an action against Petitioner alleging infringement of the '879 patent, *AIP Acquisition LLC v. Level 3 Communications, LLC,* Civ. Action No. 12-617 (D. Del.). Pet. 1. The '879 patent is also involved in the following district court actions: *AIP*

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